

Summary of Federal and State Comments on BDCP ADEIS July 2013

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1. US FWS Staff ADEIS Review

- The FWS believes that the draft BDCP ADEIS is insufficient at this time as a disclosure document and is not yet adequate in providing all information and analyses necessary for a decision-maker to make an informed choice between alternatives.
- The ADEIS is very difficult to read. Without clear and complete descriptions of the Proposed Action and its alternatives, the reader does not have the ability to review and compare the Proposed Action and its reasonable alternatives as compared to the NAA.
- ADEIS contains analysis and language that is biased toward the preferred project. Scientific information is presented unevenly, elevates information that is favorable and disparages information that does not support it (numerous examples provided)
- ADEIS relies on similar analysis and language in the BDCP that has not yet been rectified with FWS Progress Assessment comments from 4/3/13.
- A clear, full and complete project description of the proposed action is missing.
- A greater level of detail is needed to do a complete project specific level impact analysis for CM1
- The ADEIS does not provide a sufficient and equal level of information and analysis of the Proposed Action and alternatives
- Model results from alternatives are not consistently provided and compared for each of the alternatives.
- Significant water quality conflicts exist between restoration-related conservation measures and public health. Water quality tools for controlling methylmercury, selenium, and dissolved organic carbon to protect drinking water and human health directly conflict with ecological processes in wetland and floodplain habitat that are needed to generate fish population increases.
- As a result of combining programmatic and project-level alternative definitions and analyses in the DEIS it is not apparent that either was done completely or correctly.
- The ADEIS does not meet the readability test under NEPA

2. NMFS – “Big Picture” Issues for 2013 Admin Draft BDCP EIR/EIS

- The ADEIS “is currently insufficient and will need to be revised prior to formally publishing it as a DEIS with NMFS as a co-lead agency”
- The language and the content of the ADEIS are advocating for the project and could be perceived as biased.
- The readability of the document is severely diminished by organizational structure.

- Factual, consistency, and methods issues and many results and conclusions need to be changed to reflect the best available science.
- The ADEIS does not describe the federal action of granting an incidental take permit (ITP) and does not include alternatives to a 50-yr permit (e.g., 25-yr ITP, or ITP for fewer species).
- Alternatives are not equally evaluated, comparisons among alternatives are not provided, some alternatives appear to have preferential treatment because they include desirable operational elements that others do not.
- A greater level of detail on the Delta Conveyance and restoration elements in the EIS is needed to make findings under ESA Sections 10 and 7.
- Many analyses and technical issues need to be improved to make this document sufficient to provide NEPA compliance for the full suite of actions necessary to integrate the BDCP into CVP operations:
 - Water quality analysis needs to be improved. Analytical methods for DO, nutrients, mercury, selenium, and turbidity produce qualitative results.
 - Temperature is not evaluated and compared to WQS.
 - Provide greater detail about levels of significance and adverse impacts consistently throughout the document
 - Include an analysis of upstream operations and related effects
- All outstanding issues from the HCP Progress Assessment (4/4/13) apply to the ADEIS.

3. BOR

- Language and content of the BDCP are advocating for the project
- Identification of adverse and beneficial impacts is very subjective and appears to be based on a misreading of NEPA regulations
- Reclamation is a lead agency but the whole of Reclamation's actions is not analyzed
- Some of the federal actions are expected to be future considerations/decisions and will need additional NEPA analysis.
- Ongoing modeling and operational refinements associated with CM1 need to be incorporated
- Ch 5 does not attempt to analyze effects to water supplies other than CVP and SWP but it would be helpful to have information on why senior water rights holders cannot be affected.
- Changes in operation of CVP in near-term need to be clarified.

4. Corps of Engineers BDCP Potential Hot Issues & Comment Table

- The existing BDCP EIR/EIS may *not* have the project level detail for CM1 necessary to make decisions regarding issuance of permits for CM1

- A greater level of detail is needed for all CMs in the DEIS to estimate potential flooding, navigation, and wetland impacts and impacts to Corps project levees.
- Document is difficult to read
- Purpose statements are confusing and not identical in different places in the document.
- The 2009 amended purpose and need statement, "...Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts..." narrows the scope and range of reasonable alternatives considered and analyzed in the EIS/EIR.

5. Delta Independent Science Board to the Delta Stewardship Council

- Difference in level of analysis (project-level for tunnels and programmatic for restoration) appears to give unequal weight to the co-equal goals. Delta Independent Science Board advises developing the main near-term restoration actions beyond the conceptual level.
- BDCP and its EIS/EIR should consider actions to reduce reliance on water from the Delta as an alternative
- Clarify plans and implementation of adaptive mgmt
- Improve readability and comparisons among alternatives

6. State Water Resources Control Board – letter with comments

- Alternatives that reduce reliance on water from the Delta should be included in a sufficiently broad range of alternatives evaluated in the BDCP.
- The EIR/EIS should provide tabular quantitative comparisons of the various alternatives, including flows, exports, temperatures, and other quantitative information.
- State Board modeling of the decision tree alternatives shows that all four alternatives decrease spring Delta Outflow relative to the no action alternative in critically dry years. Many studies have shown is the time when fishes currently need higher flows the most.
- A broader range of Delta outflows should be included in the decision tree process. The justification for this limited range of Delta outflow scenarios is not clear given that there is strong information on the possible need for more Delta outflow for the protection of aquatic resources and the uncertainty that other conservation measures will be effective in reducing the need for flow. Specifically, recent research indicates that restoration of tidal marsh may not be feasible, possible, or effective.
- Decision tree process needs to include flows for salmon and sturgeon. It is only based on flow needs for longfin smelt and Delta smelt currently.
- Decision - making authority for the Decision Tree does not appear to be explained in either the BDCP or the EIR/EIS.
- DWR must identify the actions that it will take to bring its Project into compliance with the applicable water quality limits for mercury, selenium, EC, DOC, boron, bromide and salinity in order to fully protect and maintain beneficial uses because the ADEIS shows the Project does not comply with one or more of the water quality targets, objectives, or

criteria.

- Water quality analyses for mercury and selenium need to be improved.
- The EIR/EIS concludes that there are potentially significant impacts that are not mitigable. The EIR/EIS should describe how the BDCP is still consistent with the two coequal goals, especially the goal of protecting, restoring, and enhancing the Delta ecosystem.